

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Revision of the Commission's  
Rules to Ensure Compatibility  
with Enhanced 911 Emergency  
Calling Systems

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CC Docket No. 94-102

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FEDERAL COMMUNICATIONS COMMISSION  
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**COMMENTS OF AT&T CORP.**

AT&T Corp. ("AT&T"), by its attorneys, hereby responds to the Commission's Notice requesting comments on the Consensus Group report on the pace of Phase I implementation.<sup>1/</sup>

While AT&T generally supports the Consensus Group's report, it notes that the Group has failed to address one of the most significant barriers to wireless E-911 deployment – disputes over technology choice. In order to expedite implementation of Phase I, the Commission should clarify that carriers have a right to choose the standards-compliant technology that best allows them to meet the Commission's requirements.

In addition, AT&T agrees with those members of the Consensus Group that oppose radical changes to the Commission's cost recovery requirement. The Commission should reaffirm its requirement that a cost recovery mechanism be in place before a wireless carrier can be asked to provide Phase I service, and clarify that the mechanism be something more than merely a surcharge on wireless customers.<sup>2/</sup> While the absence of a statutory cost recovery

<sup>1/</sup> See Public Notice, Wireless Telecommunications Bureau Requests Comment on Wireless E911 Report Filed by CTIA, PCIA, APCO, NENA, and NASNA on August 9, 1999, CC Docket No. 94-102 (rel. Aug. 16, 1999) ("Notice").

<sup>2/</sup> See 47 C.F.R. § 20.18(f).

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mechanism has delayed E-911 implementation in some states, changes at this point in the process would only further impede Phase I implementation.

AT&T also agrees with the Consensus Group that any solution the Commission adopts to improve E-911 implementation should include liability protection. Finally, AT&T supports the Consensus Group's suggestion that model contracts, procedures, and agreements be utilized to hasten the Phase I implementation process.

**I. DISPUTES OVER THE CHOICE OF PHASE I TRANSMISSION TECHNOLOGY ARE A SIGNIFICANT BARRIER TO PHASE I IMPLEMENTATION**

AT&T agrees with the Consensus Group's conclusion that technical issues are contributing to delays in Phase I deployment.<sup>3/</sup> While the Consensus Group discussed two of the technical issues raised by AT&T in its earlier comments -- PSAP readiness and the role of LECs in wireless E-911 implementation<sup>4/</sup> -- it fails to address the more pressing need for the Commission to confirm that wireless carriers have the ultimate authority to choose Phase I transmission technology.

As AT&T explained in its comments on the deployment of Phase I services, disputes over the choice of Phase I transmission technology have caused delays in E-911 implementation.<sup>5/</sup> If

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<sup>3/</sup> See In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Report of CTIA, APCO, NENA and NASNA, CC Docket No. 94-102, at 3, 15-18 (Aug. 9, 1999) ("Consensus Group Report").

<sup>4/</sup> See Consensus Group Report at 15-18. See also In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Comments of AT&T Corp., CC Docket No. 94-102, at 9-11 (Aug. 9, 1999) (describing delays in Phase I implementation as a result of PSAP readiness, PSAP preferences, and the unwillingness of certain ILECs to provide wireless carriers with access to their E-911 databases) ("AT&T Comments").

<sup>5/</sup> AT&T Comments at 3-5.

the Commission clarified that wireless carriers have the right to select the most appropriate standards-compliant E-911 technology, such delays will be avoided. In addition, the time-consuming process of developing additional technical guidelines on a state-by-state basis would not be necessary. If the Commission does not provide this clarification, disputes over the choice of technology will continue to impede Phase I implementation.

## **II. DISPUTES OVER COST RECOVERY MECHANISMS ARE NOT THE PRIMARY IMPEDIMENT TO PHASE I DEPLOYMENT**

AT&T concurs with the Consensus Group that in some cases, the issue of cost recovery has been an impediment to Phase I implementation.<sup>6/</sup> The absence of statutory cost recovery mechanisms has slowed Phase I implementation in several states. AT&T also agrees with the separate conclusions of the Cellular Telecommunications Industry Association (“CTIA”) and the National Association of State Nine-One-One-Administrators (“NASNA”) that the lack of appropriate cost recovery mechanisms is primarily a state and local issue.<sup>7/</sup> However, as CTIA correctly asserts, the “Commission has a duty to ensure that cost recovery mechanisms are competitively neutral.”<sup>8/</sup>

For example, proposals that wireless carriers recover their costs by imposing carrier-specific surcharges on their customers are inadequate and undermine competitive neutrality.

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<sup>6/</sup> See Consensus Group Report at 9.

<sup>7/</sup> See In the Matter of Revision of the Commission’s Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Cellular Telecommunications Industry Association Addendum Addressing Cost Recovery, CC Docket No. 94-102, at 2 (Aug. 9, 1999) (“CTIA Comments”); In the Matter of Revision of the Commission’s Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, National Association of State Nine-One-One-Administrators Addendum Regarding Cost Recovery, CC Docket No. 94-102, at 1 (August 9, 1999) (“NASNA Comments”).

<sup>8/</sup> CTIA Comments at 3.

Carrier-specific surcharges would vary from carrier to carrier, creating marketplace disparities, and these adverse effects would be magnified if only wireless carriers had to recover E-911 costs through customer surcharges, while other carriers did not. As CTIA explained, “cost recovery mechanisms should avoid favoring one carrier’s E-9-1-1 compliance cost structure over another carrier’s cost structure.”<sup>9/</sup> To prevent further delays in the Phase I cost recovery process, the Commission should clarify that “carrier self-recovery” proposals and suggestions that carriers increase their rates to recover E-911 costs are not acceptable or appropriate cost recovery mechanisms.

In conjunction with PSAPs, AT&T and other wireless carriers have been working proactively with states that do not have a cost recovery mechanism in place. PSAPs and carriers together are making progress in each legislative session toward implementing a cost recovery mechanism in those states. Once a statutory cost recovery mechanism is in place, AT&T agrees with NENA that disputes over cost recovery issues are not the primary impediment to Phase I deployment.<sup>10/</sup> And where cost recovery mechanisms are in place, radical changes to the cost recovery rules at this point will act as an obstacle to E-911 implementation by forcing wireless carriers and PSAPs to start their negotiations all over again. If the Commission nevertheless

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<sup>9/</sup> CTIA Comments at 3.

<sup>10/</sup> See In the Matter of Revision of the Commission’s Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, National Emergency Number Association Addendum Regarding Cost Recovery, CC Docket No. 94-102, at 2 (Aug. 9, 1999) (“NENA Comments”). However, NENA’s use of New Jersey and Chicago as examples of successful Phase I deployment where cost recovery legislation has not been implemented is misleading. Currently, Phase I services have not been widely deployed in New Jersey. And in Chicago, Phase I service has not been fully deployed and wireless customers still incur a municipal surcharge of \$1.25 per subscriber.

concludes that some modifications to the cost recovery rule are necessary, it should limit any such changes to Phase II in order to avoid disrupting Phase I implementation.<sup>11/</sup>

Finally, AT&T concurs with the Association of Public-Safety Communications Officials-International, Inc. ("APCO") that regulatory obligations for wireless carriers "under both Phase I and Phase II are contingent upon there being a mechanism in place to recover their cost of complying with the rules."<sup>12/</sup> The Commission's rules expressly require that a cost recovery mechanism be in place before a wireless carrier can be asked to provide Phase I service.<sup>13/</sup> Under no circumstances should the Commission eliminate the cost recovery mechanism requirement.<sup>14/</sup>

### **III. SOLUTIONS FOR IMPROVING E-911 IMPLEMENTATION MUST INCLUDE LIABILITY PROTECTION**

AT&T supports the Consensus Group's conclusion that "any solution for improving E-911 implementation must include liability protection."<sup>15/</sup> The need for wireless carriers to seek liability protection at the federal, state and local level has slowed E-911 implementation, and the Commission should reconsider its decision not to grant wireless carriers any uniform limitations

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<sup>11/</sup> See In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Association of Public-Safety Communications Officials-International, Inc. Addendum Regarding Cost Recovery, CC Docket No. 94-102, at 5 (Aug. 9, 1999) ("APCO Comments").

<sup>12/</sup> APCO Comments at 1.

<sup>13/</sup> See 47 C.F.R. § 20.18(f).

<sup>14/</sup> As a final note on the cost recovery issue, AT&T strongly objects to King County's claims that wireless carriers are delaying Phase I implementation in Washington State. See In the Matter of Request for Comment on Wireless E911 Phase I Implementation Delays, Comments of the King County E911 Program, CC Docket No. 94-102, at 2-3 (Aug. 3, 1999) AT&T is providing ANI service free of charge in Washington. AT&T also has provided the state with complete Phase I cost data in exactly the same form that has proven acceptable to other states.

<sup>15/</sup> Consensus Group Report at 12.

on liability.<sup>16/</sup> The Commission's decision to require wireless carriers to transmit all 911 calls regardless of subscription has left wireless carriers unable to protect themselves from liability when non-subscribers use their systems. A nationwide solution to liability protection would provide immediate results, while waiting for states to resolve the issue will only further delay Phase I implementation.

#### **IV. OTHER RELIEF WILL HELP SPEED PHASE I E-911 IMPLEMENTATION**

The Consensus Group notes that wireless carriers seeking uniform wireless E-911 implementation solutions are limited in their ability to discuss and adopt such solutions because of antitrust concerns.<sup>17/</sup> AT&T supports the Group's proposal that the Commission become involved where uniform solutions among carriers are needed in order "to provide antitrust immunity by virtue of its exclusive jurisdiction over mobile service spectrum management to 'promote the safety of life and property.'"<sup>18/</sup>

AT&T also supports the Consensus Group's suggestion that all parties involved in E-911 Phase I implementation develop model contracts, procedures, and operating agreements to hasten Phase I implementation.<sup>19/</sup> AT&T has been engaged in cooperative efforts to develop model contracts in several states, including Minnesota, Texas, and Colorado, and in AT&T's experience, model contracts and agreements can greatly streamline negotiations between the parties.

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<sup>16/</sup> Id. at 13-14.

<sup>17/</sup> See id. at 14.

<sup>18/</sup> Id.

<sup>19/</sup> Id. at 7-8.

## CONCLUSION

Although AT&T has committed substantial resources to ensure that it is fully compliant with the Commission's Phase I E-911 rules, there are multiple factors beyond the control of AT&T and other wireless carriers that are delaying the implementation of Phase I. To speed the implementation of Phase I wireless E-911 service, the Commission should reaffirm its decision to require an adequate cost recovery mechanism and clarify that CMRS carriers may choose the standards-compliant technology that best allows them to meet the Commission's requirements. The Commission should also include liability protection in any solution it adopts to improve Phase I implementation.

Respectfully submitted,

AT&T CORP.

Douglas I. Brandon (b5)

Douglas I. Brandon  
Vice President - External Affairs  
AT&T Wireless Services, Inc.  
1150 Connecticut Avenue, N.W.  
Suite 400  
Washington, D.C. 20036  
202/223-9222

Howard J. Symons  
Michelle M. Mundt  
Bryan T. Bookhard  
Mintz, Levin, Cohn, Ferris, Glovsky  
and Popeo  
701 Pennsylvania Avenue, N.W.  
Suite 900  
Washington, D.C. 20004  
202/434-7300

Of Counsel

September 14, 1999

## CERTIFICATE OF SERVICE

I, Bryan T. Bookhard, hereby certify that on this 14th day of September 1999, I caused copies of the foregoing "Comments of AT&T Corp." to be sent to the following by either first class mail, postage prepaid, or by hand delivery (\*):

Thomas Sugrue\*  
Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Kris A. Monteith\*  
Chief  
Policy Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

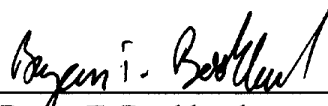
Nancy Boocker\*  
Deputy Chief  
Policy Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Won Kim\*  
Attorney  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dan Grosh\*  
Engineer  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Barbara Reideler\*  
Policy Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 3-A104  
Washington, D.C. 20554

ITS\*  
1231 20<sup>th</sup> Street, N.W.  
Washington, D.C. 20054

  
\_\_\_\_\_  
Bryan T. Bookhard